

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

IVAN BOYD,

Plaintiff,

v.

Case No. 20-C-1285

SARA MILLER,

Defendant.

DECISION AND ORDER

Plaintiff Ivan Boyd is representing himself in this §1983 case. On December 15, 2020, the Court screened his amended complaint and allowed him to proceed on deliberate indifference and negligence claims against Defendant Sara Miller. The Court, believing Miller to be a state employee, ordered Boyd's amended complaint to be served on Miller pursuant to an informal service agreement between the Wisconsin Department of Justice (WDOJ) and this Court. Dkt. No. 11 at 10. On January 25, 2021, the WDOJ declined to accept service on Miller's behalf and informed the Court that she was employed under an agency contract. Dkt. No. 13. Accordingly, that same day, court staff transmitted Boyd's amended complaint and other relevant documents to the U.S. Marshals Service for service on Miller.

About a month later, on February 24, 2021, Boyd filed a motion for default based on Miller's failure to respond to his amended complaint by the deadline set in the Court's screening order. Dkt. No. 15. The Court will deny his motion. The answer deadline in the screening order was set with the understanding that the WDOJ would accept service of the amended complaint on Miller's behalf. As explained, the WDOJ declined to accept service on her behalf, so the Court

has asked the marshals to serve her. Miller is not obligated to respond to Boyd's amended complaint until after she has been served.

Rule 4 of the Federal Rules of Civil Procedure explains the service process and the timeframes for answering, including the option for a defendant to waive service by summons within thirty days of receiving a request to do so and then having sixty days to respond. The marshals always first attempt service by the least expensive means, which is by asking a defendant to waive service by summons. The marshals make additional efforts as necessary. This process can sometimes be lengthy. The Court will monitor the marshals' efforts, so the Court encourages Boyd to be patient.

IT IS THEREFORE ORDERED that Boyd's motion for default judgment (Dkt. No. 15) is **DENIED**.

Dated at Green Bay, Wisconsin this 25th day of February, 2021.

s/ William C. Griesbach

William C. Griesbach
United States District Judge